

EPA rejects proposed settlement from U.P.

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The EPA has rejected an \$11 million offer by Union Pacific Railroad to settle its liability over the extensive lead contamination on the city's east side.

Instead, the Environmental Protection Agency is pushing the railroad to assume full liability for the cleanup, which could total more than \$70 million.

The proposals are part of the months-long negotiations taking place between U.P. and the EPA. The negotiations are much like buying a car — one side starts out low and the other high, with the talks aimed at finding an acceptable middle figure.

On Monday, the tensions spilled into the public arena after Union Pacific concluded that the EPA had had enough and was preparing legal action.

On behalf of U.P., Nebraska's entire congressional delegation sent a letter to the head of the EPA, Stephen Johnson, requesting that the agency "refrain from any unilateral action."

The letter, which was signed by Sens. Ben Nelson and Chuck Hagel and Reps. Lee Terry, Jeff Fortenberry and Tom Osborne, further criticized Johnson for not keeping them apprised of the possible legal action and for not going after other companies.

Also on Monday afternoon, U.P. issued a two-page statement saying that it would fight EPA administration and in the courts.

Kathryn Blackwell, spokeswoman for the railroad, said the company issued the press release after being told by the Department of Justice that the government was moving forward with a unilateral order.

By day's end, though, the EPA

had extended negotiations until Aug. 31 — the fifth extension since spring.

"We feel that progress is being made so we are continuing discussions," said Bob Feild, coordinator for the EPA cleanup. Furthermore, Feild said, the agency had already broadened its probe to include other companies.

The agency has long targeted four companies, Asarco, Union Pacific, Aaron Ferer & Sons and Gould Electronics. The agency has settlement offers from Aaron Ferer and Gould, in addition to U.P.

However, it is Asarco that the EPA believes is chiefly responsible for the industrial contamination of east Omaha yards — and it is that distinction that galls Union Pacific.

Asarco operated a lead refinery in downtown Omaha for more than 100 years. Union Pacific simply leased land to Asarco for the refinery.

Union Pacific also thinks deteriorating lead paint is the chief cause of Omaha's lead problems. Because of that, company officials have said the \$11 million settlement offer should go to solving problems with deteriorating paint.

The EPA has been unable to pursue Asarco thus far because of a previous legal agreement in which Asarco agreed to pay the federal government \$100 million in exchange for a three-year moratorium on legal action against it for dozens of sites nationwide in which it is potentially liable. That moratorium ends in February 2006.

The negotiations do not affect the actual cleanup itself. The EPA is paying for the cleanup, pending the outcome of its negotiations with the various companies.